

AMENDED IN SENATE JUNE 5, 2006

AMENDED IN ASSEMBLY MAY 2, 2006

AMENDED IN ASSEMBLY MARCH 27, 2006

AMENDED IN ASSEMBLY MARCH 14, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1796**

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**Introduced by Assembly Member Bermudez  
(Principal coauthor: Assembly Member Maze)  
(Coauthors: Assembly Members Koretz, Tran, and Vargas)**

January 9, 2006

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An act to amend Sections 2082, 2083, 2177, 2221, and 2442 of, and to add Section 2015.5 to, the Business and Professions Code, relating to physicians and surgeons.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1796, as amended, Bermudez. Physicians and surgeons.

Existing law, the Medical Practice Act, creates the Medical Board of California and makes its Division of Licensing responsible for issuing a physician's and surgeon's certificate to qualified applicants. Under the act, an applicant for a physician's and surgeon's certificate is required to include specified information with his or her application and to obtain a passing score on the licensure examination. The act authorizes the division to deny an application and to issue a probationary license that is subject to conditions of probation. Under the act, the fee for a physician's and surgeon's certificate, or to renew the certificate, is waived if the practitioner certifies he or she provides voluntary, unpaid services.

This bill would authorize the board to establish advisory committees consisting of physicians and surgeons and public members, as specified, who are not required to be members of the board.

The bill would require an applicant for a physician's and surgeon's certificate to disclose information related to any sexual misconduct ~~or any sexual harassment~~ settlement, judgment, or conviction, *and any sexual harassment judgment or conviction*, and to obtain a passing score on a specified licensure examination within 4 attempts of taking it. The bill would authorize the Division of Licensing to require payment of the cost of monitoring as a condition of a probationary license. The bill would specify that no applicant is eligible to reapply until 3 years after the date of the decision denying his or her application for a physician's and surgeon's certificate, except under certain conditions.

The bill would specify that the fee for a physician's and surgeon's certificate, or to renew the certificate, is waived only for a practitioner residing in California who certifies his or her services are voluntary and unpaid.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 2015.5 is added to the Business and
- 2 Professions Code, to read:
- 3 2015.5. The board may establish advisory committees
- 4 consisting of persons who have a physician's and surgeon's
- 5 certificate issued by the board that is in good standing and
- 6 members of the public with interest or knowledge of the subject
- 7 matter assigned to the committee. Members of an advisory
- 8 committee need not be members of the board.
- 9 SEC. 2. Section 2082 of the Business and Professions Code is
- 10 amended to read:
- 11 2082. Each application shall include the following:
- 12 (a) A diploma issued by an approved medical school. The
- 13 requirements of the school shall have been at the time of granting
- 14 the diploma in no degree less than those required under this
- 15 chapter or by any preceding medical practice act at the time that
- 16 the diploma was granted. In lieu of a diploma, the applicant may

1 submit evidence satisfactory to the Division of Licensing of  
2 having possessed the same.

3 (b) An official transcript or other official evidence satisfactory  
4 to the division showing each approved medical school in which a  
5 resident course of professional instruction was pursued covering  
6 the minimum requirements for certification as a physician and  
7 surgeon, and that a diploma and degree were granted by the  
8 school.

9 (c) Other information concerning the professional instruction  
10 and preliminary education of the applicant as the division may  
11 require.

12 (d) An affidavit showing to the satisfaction of the division that  
13 the applicant is the person named in each diploma and transcript  
14 that he or she submits, that he or she is the lawful holder thereof,  
15 and that the diploma or transcript was procured in the regular  
16 course of professional instruction and examination without fraud  
17 or misrepresentation.

18 (e) Either fingerprint cards or a copy of a completed ~~Livescan~~  
19 *Live Scan* form from the applicant in order to establish the  
20 identity of the applicant and in order to determine whether the  
21 applicant has a record of any criminal convictions in this state or  
22 in any other jurisdiction, including foreign countries. The  
23 information obtained as a result of the fingerprinting of the  
24 applicant shall be used in accordance with Section 11105 of the  
25 Penal Code, and to determine whether the applicant is subject to  
26 denial of licensure under the provisions of Division 1.5  
27 (commencing with Section 475) and Section 2221.

28 (f) ~~Complete disclosure~~ *Disclosure* of all information  
29 regarding any sexual misconduct ~~or any sexual harassment~~  
30 settlement, judgment, or conviction *and disclosure of any sexual*  
31 *harassment judgment or conviction*. Failure to comply with this  
32 subdivision is grounds for the denial of the ~~application~~ *license*.

33 SEC. 3. Section 2083 of the Business and Professions Code is  
34 amended to read:

35 2083. (a) Except as provided in subdivision (b), each  
36 application for a certificate shall be accompanied by the fee  
37 required by this chapter and shall be filed with the Division of  
38 Licensing.

39 (b) The license fee shall be waived for a physician and  
40 surgeon residing in California who certifies to the Medical Board

1 of California that the issuance of the license or the renewal of the  
2 license is for the sole purpose of providing voluntary, unpaid  
3 service.

4 SEC. 4. Section 2177 of the Business and Professions Code is  
5 amended to read:

6 2177. (a) A passing score is required for an entire  
7 examination or for each part of an examination, as established by  
8 resolution of the Division of Licensing.

9 (b) Applicants may elect to take the written examinations  
10 conducted or accepted by the division in separate parts.

11 (c) An applicant shall have obtained a passing score on Part III  
12 of the United States Medical Licensing Examination within not  
13 more than four attempts in order to be eligible for a physician's  
14 and surgeon's certificate.

15 SEC. 5. Section 2221 of the Business and Professions Code is  
16 amended to read:

17 2221. (a) The Division of Licensing may deny a physician's  
18 and surgeon's certificate to an applicant guilty of unprofessional  
19 conduct or of any cause that would subject a licensee to  
20 revocation or suspension of his or her license; or, the division in  
21 its sole discretion, may issue a probationary physician's and  
22 surgeon's certificate to an applicant subject to terms and  
23 conditions, including, but not limited to, any of the following  
24 conditions of probation:

25 (1) Practice limited to a supervised, structured environment  
26 where the licensee's activities shall be supervised by another  
27 physician and surgeon.

28 (2) Total or partial restrictions on drug prescribing privileges  
29 for controlled substances.

30 (3) Continuing medical or psychiatric treatment.

31 (4) Ongoing participation in a specified rehabilitation  
32 program.

33 (5) Enrollment and successful completion of a clinical training  
34 program.

35 (6) Abstention from the use of alcohol or drugs.

36 (7) Restrictions against engaging in certain types of medical  
37 practice.

38 (8) Compliance with all provisions of this chapter.

39 (9) Payment of the cost of probation monitoring.

1 (b) The Division of Licensing may modify or terminate the  
2 terms and conditions imposed on the probationary certificate  
3 upon receipt of a petition from the licensee.

4 (c) Enforcement and monitoring of the probationary  
5 conditions shall be under the jurisdiction of the Division of  
6 Medical Quality in conjunction with the administrative hearing  
7 procedures established pursuant to Sections 11371, 11372,  
8 11373, and 11529 of the Government Code, and the review  
9 procedures set forth in Section 2335.

10 (d) The Division of Licensing shall deny a physician's and  
11 surgeon's certificate to an applicant who is required to register  
12 pursuant to Section 290 of the Penal Code. This subdivision does  
13 not apply to an applicant who is required to register as a sex  
14 offender pursuant to Section 290 of the Penal Code solely  
15 because of a misdemeanor conviction under Section 314 of the  
16 Penal Code.

17 (e) An applicant shall not be eligible to reapply for a  
18 physician's and surgeon's certificate for a minimum of three  
19 years from the effective date of the denial of his or her  
20 application, except that the division may, in its discretion and for  
21 good cause demonstrated, permit reapplication after not less than  
22 one year has elapsed from the effective date of the denial.

23 SEC. 6. Section 2442 of the Business and Professions Code is  
24 amended to read:

25 2442. The renewal fee shall be waived for a physician and  
26 surgeon residing in California who certifies to the Medical Board  
27 of California that license renewal is for the sole purpose of  
28 providing voluntary, unpaid service.